



REMARKS

Claims 15 and 25 are amended, no claims are canceled or added; as a result, claims 1-46 are now pending in this application. Claims 15 and 25 are amended to clarify the claims and not amended in response to any rejection.

§102 Rejection of the Claims

Claims 1-5, 10-19, 24-27, 30-42 and 46 were rejected under 35 U.S.C. § 102(e) as being anticipated by Nichols et al. (U.S. Patent No. 6,363,282). Applicant respectfully traverses as a *prima facie* case of anticipation has not been made.

Claim 1 recites, among other things, “a central server coupled to the network and including at least one prescription system for prescribing at least one programmable parameter of a medical device based upon at least one characteristic of a patient; . . . and a medical device programmer . . . configured to communicate at least one characteristic of a patient to the central server via the network, to receive at least one programmable parameter from the central server via the network, and to program the medical device using the at least one programmable parameter.” Applicant can not find these features in Nichols. The Office Action cites col. 6, line 60 through col. 7, line 55 and col. 9 lines 20-30 of Nichols for these features. Applicant can not find the recited features of claim 1 in these cited portions of Nichols.

Moreover, Nichols teaches away from a prescription system for prescribing at least one programmable parameter of a medical device based upon at least one characteristic of a patient and a medical device programmer to receive at least one programmable parameter from the central server via the network and to program the medical device using the at least one programmable parameter as recited in claim 1. Nichols is directed to a system and method for providing an automated software update to a *programmer* or equivalent device used in implantable medical device system, see Abstract. Nichols at col. 13, lines 34-35 states “Additionally, as discussed hereinabove, data resources 100 provide remote monitoring, maintenance and upgrade of programmer 20.” Nichols at col. 13, lines 57-62 further states “programmer configuration database 110 includes information and data specifying both the hardware configuration and the software applications or programs installed on various

programmers, including programmer 20.” Nichols at col. 14, lines 4-8 continues “Release software database 128 is a software database which includes all current software applications or programs developed and configured for various programmers, including programmer 20 connected to data center 62 via data communications link/connection 136.” Nichols at col. 14, lines 9-11 continues “Rule set database 130 is a database which includes information and data related to specific rules and regulations regarding various software applications for programmer 20.” Nichols at col. 14, lines 60-61 continues “FIG. 6 is flow chart describing method 140 of automatically providing updated software to programmer 20.” Accordingly, Nichols teaches updating the programmer, but does not teach or even suggest a programmer to receive at least one programmable parameter from the central server via the network, and to program the medical device using the at least one programmable parameter as recited in claim 1.

As applicant can not find all of the features of claim 1 in Nichols, applicant requests reconsideration and allowance of claim 1 and its dependent claims 2-14. Dependent claim 2-14 are allowable at least for the same reasons as independent claim 1. There are additional reasons supporting patentability of the dependent claims, however, these are not argued at this time as it is not necessary and for clarity of argument with respect to claim 1.

Claim 15 recites, among other things, “at least one prescription system coupled to the network interface, each configured to receive at least one characteristic of a patient from the medical device programmer via the network, to prescribe at least one programmable parameter of a medical device based on the at least one characteristic of the patient, and to transmit the at least one prescribed programmable parameter of the medical device to the medical device programmer via the network.” Applicant can not find where Nichols teaches or even suggests “to transmit the at least one prescribed programmable parameter of the medical device” as recited in claim 15. Nichols appears to be directed to updating programmer software as discussed in greater detail above with regard to claim 1.

As applicant can not find all of the features of claim 15 in Nichols, applicant requests reconsideration and allowance of claim 15 and its dependent claims 16-24. Dependent claim 16-24 are allowable at least for the same reasons as independent claim 15. There are additional reasons supporting patentability of the dependent claims, however, these are not argued at this time as it is not necessary and for clarity of argument with respect to claim 15.

Claim 25 recites, among other things, “a processor coupled to the network interface and the medical device interface, and configured to communicate at least one characteristic of a patient to the central server via the network, to receive at least one prescribed programmable parameter of the medical device from the central server via the network, and to program the medical device using the at least one prescribed programmable parameter of the medical device via the medical device interface.” Applicant can not find these features in Nichols. For example, applicant can not find in Nichols a teaching or suggestion of a programmer to *receive* at least one prescribed *programmable parameter of the medical device* from the central server via the network, and to *program* the medical device using the at least one *prescribed programmable parameter of the medical device* via the medical device interface. Nichols appears to be directed to updating programmer software as discussed in greater detail above and does not teach receiving a medical device programmable parameter and programming the medical device with the medical device programmable parameter.

As applicant can not find all of the features of claim 25 in Nichols, applicant requests reconsideration and allowance of claim 25 and its dependent claims 26-34. Dependent claim 26-34 are allowable at least for the same reasons as independent claim 25. There are additional reasons supporting patentability of the dependent claims, however, these are not argued at this time as it is not necessary and for clarity of argument with respect to claim 25.

Claim 35 recites, among other things, “determining at least one programmable parameter for a medical device based on the at least one characteristic using a prescription system hosted by the central server; communicating the at least one programmable parameter to the programmer; and programming the medical device using the at least one programmable parameter.” Applicant can not find these features in Nichols. Specifically, applicant can not find determining . . . using a prescription system hosted by the central server and programming the medical device using the at least one programmable parameter as recited in claim 35. Applicant can not find where Nichols teaches or even suggests programming a medical device based on a parameter determined using a prescription system hosted on a central server. Nichols appears to teach updating programmer software and not medical devices as recited in claim 35.

As applicant can not find all of the features of claim 35 in Nichols, applicant requests reconsideration and allowance of claim 35 and its dependent claims 36-46. Dependent claim 36-

46 are allowable at least for the same reasons as independent claim 35. There are additional reasons supporting patentability of the dependent claims, however, these are not argued at this time as it is not necessary and for clarity of argument with respect to claim 35.

§103 Rejection of the Claims

Claims 6-9, 20-23, 28, 29 and 43-45 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Nichols et al. (U.S. Patent No. 6,363,282) in view of Haller (U.S. Patent No. 6,804,558). Applicant respectfully traverses as a *prima facie* case of obviousness has not been made. Claims 6-9, 20-23, 28, 29 and 43-45 are dependent claims and are believed to be allowable with their respective parent claims as Haller does not cure the defects of Nichols as a reference against the claims.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 349-9587 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

JULIO C. SPINELLI ET AL.

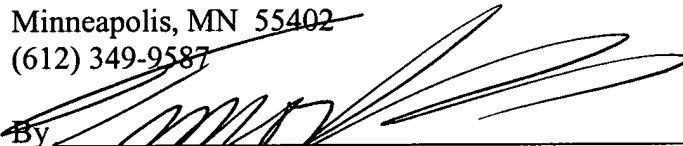
By their Representatives,

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20 March '06

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 20 day of March, 2006.

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